

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Alcoholism and Other Drug Abuse and  
5 Dependency Act is amended by changing Section 40-10 as follows:

6 (20 ILCS 301/40-10)

7 Sec. 40-10. Treatment as a condition of probation.

8 (a) If a court has reason to believe that an individual who  
9 is charged with or convicted of a crime suffers from alcoholism  
10 or other drug addiction and the court finds that he is eligible  
11 to make the election provided for under Section 40-5, the court  
12 shall advise the individual that he or she may be sentenced to  
13 probation and shall be subject to terms and conditions of  
14 probation under Section 5-6-3 of the Unified Code of  
15 Corrections if he or she elects to submit to treatment and is  
16 accepted for treatment by a designated program. The court shall  
17 further advise the individual that:

18 (1) if he or she elects to submit to treatment and is  
19 accepted he or she shall be sentenced to probation and  
20 placed under the supervision of the designated program for  
21 a period not to exceed the maximum sentence that could be  
22 imposed for his conviction or 5 years, whichever is less.

23 (2) during probation he or she may be treated at the

1 discretion of the designated program.

2 (3) if he or she adheres to the requirements of the  
3 designated program and fulfills the other conditions of  
4 probation ordered by the court, he or she will be  
5 discharged, but any failure to adhere to the requirements  
6 of the designated program is a breach of probation.

7 The court may certify an individual for treatment while on  
8 probation under the supervision of a designated program and  
9 probation authorities regardless of the election of the  
10 individual.

11 (b) If the individual elects to undergo treatment or is  
12 certified for treatment, the court shall order an examination  
13 by a designated program to determine whether he suffers from  
14 alcoholism or other drug addiction and is likely to be  
15 rehabilitated through treatment. The designated program shall  
16 report to the court the results of the examination and  
17 recommend whether the individual should be placed for  
18 treatment. If the court, on the basis of the report and other  
19 information, finds that such an individual suffers from  
20 alcoholism or other drug addiction and is likely to be  
21 rehabilitated through treatment, the individual shall be  
22 placed on probation and under the supervision of a designated  
23 program for treatment and under the supervision of the proper  
24 probation authorities for probation supervision unless, giving  
25 consideration to the nature and circumstances of the offense  
26 and to the history, character and condition of the individual,

1 the court is of the opinion that no significant relationship  
2 exists between the addiction or alcoholism of the individual  
3 and the crime committed, or that his imprisonment or periodic  
4 imprisonment is necessary for the protection of the public, and  
5 the court specifies on the record the particular evidence,  
6 information or other reasons that form the basis of such  
7 opinion. However, under no circumstances shall the individual  
8 be placed under the supervision of a designated program for  
9 treatment before the entry of a judgment of conviction.

10 (c) If the court, on the basis of the report or other  
11 information, finds that the individual suffering from  
12 alcoholism or other drug addiction is not likely to be  
13 rehabilitated through treatment, or that his addiction or  
14 alcoholism and the crime committed are not significantly  
15 related, or that his imprisonment or periodic imprisonment is  
16 necessary for the protection of the public, the court shall  
17 impose sentence as in other cases. The court may require such  
18 progress reports on the individual from the probation officer  
19 and designated program as the court finds necessary. No  
20 individual may be placed under treatment supervision unless a  
21 designated program accepts him for treatment.

22 (d) Failure of an individual placed on probation and under  
23 the supervision of a designated program to observe the  
24 requirements set down by the designated program shall be  
25 considered a probation violation. Such failure shall be  
26 reported by the designated program to the probation officer in

1 charge of the individual and treated in accordance with  
2 probation regulations.

3 (e) Upon successful fulfillment of the terms and conditions  
4 of probation the court shall discharge the person from  
5 probation. If the person has not previously been convicted of  
6 any felony offense and has not previously been granted a  
7 vacation of judgment under this Section, upon motion, the court  
8 shall vacate the judgment of conviction and dismiss the  
9 criminal proceedings against him unless, having considered the  
10 nature and circumstances of the offense and the history,  
11 character and condition of the individual, the court finds that  
12 the motion should not be granted. Unless good cause is shown,  
13 such motion to vacate must be filed at any time from the date  
14 of ~~within 30 days of~~ the entry of the judgment to a date that is  
15 not more than 60 days after the discharge of the probation.

16 (Source: P.A. 91-663, eff. 12-22-99.)